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repay a careful reading, and would be valuable as the possession of any student.

The author was properly ambitious in his work, and boldly makes claims for what he has done, and some of his claims are amply justified.

THE LAW OF TRADEMARKS AND UNFAIR TRADE. BY NORMAN F. HESSELTINE. Boston: Little, Brown & Co. 1906. pp. xlviii, 390.

"Nor is it necessary in order to get a right to an injunction that a specific trademark should be infringed; but it is sufficient that the Court is satisfied that there was an intent on the part of the respondent to palm off his goods as the goods of the complainant; and that he persists in so doing after being requested to desist." *McClain v. Fleming* (1877) 96 U. S. 245. See also *Avery v. Michele* (1882) 81 Ky. 73.

It has taken many years and many decisions for the courts to arrive at the point of view expressed in the quotation from *McClain v. Fleming*, and to readopt the theory which seems first to have actuated courts in taking jurisdiction. In the books there are early cases to the effect that an action on the case for *deceit* will lie against a clothier "who sells bad cloth upon which he put the mark of another." See *Southern v. How* (1590) 2 Popham 144, which Browne in his work on trademarks regards as an authority that manufacturers may bring the action.

Hopkins and Browne have given the genesis of the law showing the return of courts to the ground of fraud as a reason for granting relief in cases of unfair trade, and the consequent distinction between the two closely related topics. But it has remained for Mr. Hesselntine to collect and reduce to a digest "all cases on this subject in the United States Courts, the decisions on trademarks of the Commissioner of Patents and the important State and English decisions."

The distinction between unfair trade and the infringement of trademark is one which not only has caused the practitioner no little anxiety, but has led the courts into conflicting decisions and theories; indeed it was not until the cases cited *supra* that the doctrine of unfair trade was given a sound basis in this country. Mr. Hesselntine has succeeded admirably in marking this distinction or rather in showing that the law of Trademark has, in reality, a narrower scope than that of Unfair Trade.

Though possibly one is at first inclined to take issue with Mr. Hesselntine upon his statement that "the legal profession now wants the law and cases, not pages of theoretical reasoning," yet an increasing familiarity with the cases leads one to the irresistible conclusion that a book based upon any other theory would, so far as the subject in hand is concerned, be of little value for practical purposes inasmuch as in this branch of the law more, perhaps, than in any other, each case seems dependent upon its own facts. The author seems to have arranged his book with some reference to logical order; in grouping his cases under appropriate headings and in obtaining an arrangement of topics which to an ordinary mortal is reasonable, he has succeeded better than many digest writers with whose work we are acquainted, in producing a book of real utility. Indeed in the present work a case is found where one would reasonably expect it to be.